

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-325-T - ORDER NO. 98-164

MARCH 3, 1998

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| IN RE: Application of Reliable Services Group, Inc., |) | ORDER |
| 9433 Highway 78, Suite A-1, Ladson, South |) | APPROVING |
| Carolina 29456, for a Class E Certificate of |) | CLASS E |
| Public Convenience and Necessity. |) | CERTIFICATE |
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This matter comes before the Public Service Commission of South Carolina ("the Commission") on the Application of Reliable Services Group, Inc., 9433 Highway 78, Suite A-1, Ladson, SC 29456 ("Reliable" or "the Company") for a Class E Certificate of Public Convenience and Necessity to transport commodities as follows:

HOUSEHOLD GOODS, AS DEFINED IN R.103-210 (1):
Between Points and Places in South Carolina.

The Commission's Executive Director required Reliable to publish, one time, a Notice of Filing in newspapers of general circulation in the area in which service is sought. The Notice of Filing informed interested persons of the manner and time to participate in this case before the Commission. The Company complied with the instructions of the Executive Director and filed affidavits of publication as proof of compliance. Petitions to Intervene were filed by Anthony P. Cook, President of Dale J. Cook Moving & Storage, Inc; Dale J. Cook, President of Azalea Moving & Storage, Inc.; Timothy W. Jaskiewicz of Palmetto Read's Van Service, Inc.; Joan B. McMillan, Vice

President of CoMac, Inc.; Charles E. Harshaw, President of J & C Moving & Storage, Inc.; and Sharon Chavis, Vice President of Chavis Moving & Storage, Inc.

A hearing was held on this matter on February 4, 1998, at 2:30 p.m. in the Commission's Hearing Room at 111 Doctors Circle, Columbia, South Carolina. The Honorable Guy Butler, Chairman, presided. Reliable was represented by John F. Beach, Esquire and F. Lee Prickett, Jr., Esquire. Reliable presented Jim Scruggs, Jay Tiedemann, and Tara Boyer as witnesses. Anthony P. Cook was the sole intervenor to appear and testify. Mr. Cook was not represented by counsel. The Commission Staff was represented by Florence P. Belser, Staff Counsel. Staff did not present a witness.

At the beginning of the hearing, counsel for Reliable informed the Commission that subsequent to the filing of the its Application, Reliable has entered into a franchise agreement with Two Men and A Truck. Counsel stated that should Reliable be granted authority that Reliable will be operating with the trade name of Two Men and A Truck and requested that any certificate of authority issued to Reliable reflect this trade name.

Additionally, counsel for Reliable made an oral motion to dismiss the Intervenors who did not appear at the hearing on the grounds of failing to present their case in this Docket. The Commission took the Motion under advisement and stated that it would rule on the Motion to Dismiss in the final Order issued in this case.

In considering Reliable's Motion, the Commission is aware of its Regulations on Practice and Procedure. 26 S.C. Code Ann. Regs. 103-868 provides as follows:

- A. At the time and place set for hearing, if an applicant, petitioner, or complainant fails to attend personally or through an authorized representative without having obtained a continuance in the manner specified in R. 103-

862, the Commission may dismiss the petition, application, or complaint with or without prejudice or may, upon good cause shown, recess such hearing for a further period to be set by the Commission to enable such applicant, petitioner, or complainant to attend.

- B. Parties of record or their authorized representative shall be present during all proceedings of any scheduled matter pending before the Commission except upon leave of the presiding officer.

An intervenor becomes a party in any docket by filing a Petition to Intervene.

Thus, an intervenor is a “Petitioner” as contemplated by R. 103-868. The Intervenor, which did not appear at the hearing, did not seek a continuance of the hearing or request to be excused from the scheduled proceeding. Therefore, the Commission grants Reliable’s Motion to Dismiss the Intervenor who did not appear at the hearing.

APPLICABLE LAW

In determining whether to issue a Certificate of Public Convenience and Necessity for a carrier of household goods, the Commission is guided by the S.C. Code Ann. §58-23-590 (Supp. 1997). S.C. Code Ann. §58-23-590(C) provides that:

The commission shall issue a common carrier certificate ... of public convenience and necessity if the applicant proves to the [C]ommission that:

- (1) it is fit, willing, and able to properly perform the proposed service and comply with the provisions of this chapter and the [C]ommission’s regulations; and
- (2) the proposed service, to the extent to be authorized by the certificate or permit, is required by the present public convenience and necessity.

The Commission is further guided by 26 S.C. Code Ann. Reg. 103-133 (Supp. 1997) which provides in relevant part as follows:

...The following criteria should be used by the Commission in determining that an applicant for motor carrier operating authority is fit, willing, and able to provide the requested service to the public:

- (a) FIT. The applicant must demonstrate or the Commission determine that the Applicant's safety rating is satisfactory. This can be obtained from U.S.D.O.T, SCDHPT, and PSC safety records. Applicants should also certify that there are no outstanding judgments pending against such applicant. The applicant should further certify that he is familiar with all statutes and regulations, including safety regulations, governing for-hire motor carrier operations in South Carolina and agrees to operate in compliance with these statutes and regulations.
- (b) ABLE. The applicant should demonstrate that he has either purchased, leased, or otherwise arranged for obtaining necessary equipment to provide that service for which he is applying. The applicant should also provide evidence of in the form of insurance policies or insurance quotes, indicating that he is aware of the Commission's insurance requirements and the costs associated therewith.
- (c) WILLING. Having met the requirements as to "fit and able", the submitting of the application for operating authority would be sufficient demonstration of the applicant's willingness to provide the authority sought.

EVIDENCE OF RECORD

Reliable presented the testimony of three witnesses in its case. Jim Scruggs, President and owner of Reliable, testified regarding Reliable being fit, willing, and able to perform the services for which he seeks authority. Mr. Scruggs testified that Reliable owns a 1995 International, 24 foot diesel, automatic truck and that the truck is in excellent condition. This truck is the truck that Reliable will use in its moving business. Additionally, Reliable has a van, which has been leased personally by Bruce Swanson,

that Reliable will use for delivery of boxes. Mr. Scruggs also testified that Reliable has sufficient insurance for the protection of the public in amounts which are greater than are required by the Commission. Specifically, Reliable carries insurance with \$2,000,000 aggregate on general liability and \$50,000 cargo insurance.

Additionally, Mr. Scruggs testified that Reliable has leased office space in Ladson, South Carolina. Mr. Scruggs stated that the initial staff of Reliable would consist of himself, Bruce Swanson, and Greg Savitski. While the testimony reveals that neither Mr. Scruggs nor Mr. Swanson has any prior experience in the moving industry, both have attended the Two Men and A Truck National Training Program in Lansing, Michigan. Mr. Scruggs also testified that as a franchisee of Two Men and A Truck that Reliable will receive ongoing support and interaction in the form of manuals, tapes, marketing materials, a "Help Line," and assistance in problem solving.

Mr. Scruggs stated that Reliable has not performed any moves of personal household goods, but has performed some commercial moves. Mr. Scruggs offered that performing the commercial moves has given Reliable some good experience. Mr. Scruggs also stated that Reliable has joined the Charleston Chamber of Commerce.

According to the testimony, Reliable has proper capitalization. Mr. Scruggs stated that he has capitalized the business and also noted that Reliable has a \$25,000 unsecured line of credit with the Bank of Charleston which has not been used as of yet. Further, there are no liens or other debt on any assets of Reliable, including the truck owned by Reliable. By its Application, Reliable certified that it did not have any outstanding judgments pending against it and that it is familiar with the Commission's

Rules and Regulations and agrees to operate in compliance with those Rules and Regulations.

Mr. Scruggs also testified that last summer he tried to make a personal move and found it was difficult to find a moving company to move him due to the companies being busy. Mr. Scruggs stated that he personally experienced difficulty in scheduling the move. Mr. Scruggs also stated that the public convenience and necessity are not currently being served in South Carolina and that economic investment in the state are creating the need for additional services. Additionally, Mr. Scruggs offered that new home building permits have increased in the last year. Mr. Scruggs also stated that the major van lines are able to handle the long haul moves but that a need exists for short haul or local movers. As indicators for the need of short haul and local moves, Mr. Scruggs cited the increase and abundance of “do-it yourself-type” moving businesses, such as U-Haul; the increase in the requests through temporary employment agencies for loaders and unloaders, and the increase in packing and loading services entering the industry. Mr. Scruggs stated that additional authorized movers are needed because authorized moving services are regulated thereby assuring proper insurance and training of personnel.

According to Mr. Scruggs, approval of Reliable’s Application for authority will not be a detriment to the existing movers. Mr. Scruggs stated that a review of the annual reports filed with the Commission by the Intervenor indicated that the Intervenor spend approximately 80% of their business on interstate moves. Further, Mr. Scruggs stated

that Reliable seeks to serve primarily local moves which may attract business from the “do-it-yourself” market.

Mr. Scruggs stated that as a franchisee of Two Men and A Truck that he is awarded an exclusive and protected operating territory. He further stated that initially Reliable will be focusing its attention on moves in and from the low country counties of Charleston, Dorchester, Beaufort, Berkeley, Horry, and Georgetown Counties.

Jay Tiedemann, Vice President of Human Resources for The InterTec Group, also testified. Mr. Tiedemann stated that The InterTec Group is the second largest corporation in South Carolina. As Vice President of Human Resources, Mr. Tiedemann testified that he assists in relocation of employees and is therefore familiar with moving services in the Charleston area and in South Carolina. To demonstrate his familiarity with the household goods moving industry, Mr. Tiedemann stated that he had assisted in excess of twenty moves in the last year. Mr. Tiedemann offered his opinion that the public convenience and necessity are not being served by existing carriers and that there is a need for additional moving services. Mr. Tiedemann also stated that he personally knows Mr. Scruggs and that he believes that Mr. Scruggs will do a good job in the moving business.

Tara Boyer, owner of the Two Men and A Truck of Columbia franchise, also testified in support of Reliable’s application. Ms. Boyer testified that her franchise conducted some training of Mr. Swanson and Mr. Savitski. Ms. Boyer testified that in her opinion Reliable is fit, willing, and able to provide household goods moving services. Further, Ms. Boyer testified that the public convenience and necessity are not being met in South Carolina and stated that she is turning down business every day. Ms. Boyer also

stated that her business saw 28% growth in 1997 over 1996 and that 2 trucks were added to her fleet in 1997.

Anthony P. Cook, President of Dale J. Cook Moving & Storage, testified in opposition to Reliable's Application. Mr. Cook stated that he has 18 years experience in the moving and storage industry. Mr. Cook stated his opinion that the public convenience and necessity are being met by existing carriers and that Reliable's services are not needed in the market. Mr. Cook stated that there are currently 19 certified movers in the Charleston area and 109 certified movers in the state. Mr. Cook also testified that the Charleston market has experienced a drastic decline in business since the closure of the Navy base. Further, Mr. Cook expressed concern over the proposal of the military to re-engineer its policies on moving where the military would no longer share the business among 12 movers but would award all moves to one carrier. Mr. Cook also offered that two other movers have gone out of business due to lack of business.

FINDINGS AND CONCLUSIONS

Upon consideration of the Application, the representations contained therein and documentary evidence attached thereto, and the evidence presented at the hearing, the Commission makes the following finds of fact and conclusions of law:

1. Reliable is fit, willing, and able to perform household goods moving services in the State of South Carolina. Reliable demonstrated its fitness by certifying that there are no outstanding judgments pending against it and that its principals are familiar with and will operate in compliance with all statutes and regulations governing for-hire motor carrier operation in South Carolina. Further, Reliable has demonstrated that it is able to

perform the services by demonstrating that it has purchased suitable equipment for the provision of moving services. Additionally, Reliable has demonstrated that it has insurance coverage which exceeds the minimum required by the Commission. Finally, Reliable has demonstrated willingness to perform the services by making application for authority, by attending the hearing on this matter, and by stating that it desires to provide the services for which it seeks authority.

2. The Commission finds that the public convenience and necessity requires the issuance of authority to Reliable. The Commission concludes that Reliable has demonstrated a need for its services.

3. However, the Commission also finds and concludes that statewide authority should not be granted to Reliable. At this time, Reliable has only one vehicle and one pack van with which Reliable proposes to serve the entire state. The Commission does not believe that such limited equipment can serve the entire state. Additionally, the Commission notes that two other franchises of the same franchise have previously been approved for authority in South Carolina. The record reveals that the franchisees are somewhat limited in operating in the territory of other franchisees. The Commission would also note the inexperience of the principals in the moving industry. This venture is new to the principals, neither of whom have prior experience in the moving industry. Therefore, the Commission believes that at this time it is appropriate for Reliable to serve the low country counties where Reliable stated that it would initially focus its efforts. Therefore, the Commission determines that Reliable should be granted the following scope of authority to move household goods in South Carolina:

BETWEEN POINTS AND PLACES IN:

Beaufort, Berkeley, Charleston, Dorchester, Georgetown, and Horry
Counties, South Carolina.

AND FROM POINTS AND PLACES IN:

Beaufort, Berkeley, Charleston, Dorchester, Georgetown, and Horry
Counties, South Carolina

TO POINTS AND PLACES IN SOUTH CAROLINA.

This authority will permit Reliable to serve the counties where its principal stated it would initially concentrate its efforts by allowing Reliable to move between points and places in the counties listed, as well as pick up from a point in any of the listed counties and deliver to another point in the state.

IT IS THEREFORE ORDERED THAT:

1. The Application for a Class E Certificate of Public Convenience and Necessity be approved for authority to transport household goods as follows:

BETWEEN POINTS AND PLACES IN:

Beaufort, Berkeley, Charleston, Dorchester, Georgetown, and Horry
Counties, South Carolina.

AND FROM POINTS AND PLACES IN:

Beaufort, Berkeley, Charleston, Dorchester, Georgetown, and Horry
Counties, South Carolina

TO POINTS AND PLACES IN SOUTH CAROLINA.

2. Applicant's motion to amend its name to include a trade name is granted. The certificate authorized herein shall be issued in the name of Reliable Services Group, Inc. d/b/a Two Men and A Truck.

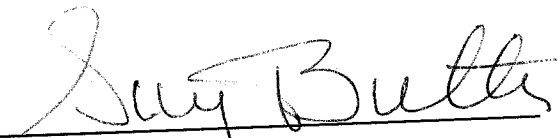
3. The Applicant shall file the proper license fees and other information required by S.C. Code Ann. Section 58-23-10 et seq. (1976), as amended, and by 26 S.C. Code Ann. Regs. 103-100 through 103-280 of the Commission's Rules and Regulations for Motor Carriers, as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

4. Upon compliance with S.C. Code Ann. Section 58-23-10 et seq. (1976), as amended, and the applicable provisions of 26 S.C. Code Ann. Regs. 103-100 through 103-280 of the Commission's Rules and Regulations for Motor Carriers, as amended, a certificate shall be issued to the Applicant authorizing the motor carrier services approved and granted herein.

5. Prior to compliance with the requirements listed herein and receipt of a certificate, the motor carrier services authorized herein may not be provided.

6. This Order shall remain in effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)